

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 58th LEGISLATURE - REGULAR SESSION

COMMITTEE ON BUSINESS AND LABOR

Call to Order: By **CHAIRMAN JOE MCKENNEY**, on January 23, 2003 at 8:00 A.M., in Room 172 Capitol.

ROLL CALL

Members Present:

Rep. Joe McKenney, Chairman (R)
Rep. Jim Keane, Vice Chairman (D)
Rep. Donald Steinbeisser, Vice Chairman (R)
Rep. Bob Bergren (D)
Rep. Rod Bitney (R)
Rep. Sylvia Bookout-Reinicke (R)
Rep. Nancy Fritz (D)
Rep. Dave Gallik (D)
Rep. Kathleen Galvin-Halcro (D)
Rep. Ray Hawk (R)
Rep. Bob Lawson (R)
Rep. Rick Maedje (R)
Rep. Gary Matthews (D)
Rep. Scott Mendenhall (R)
Rep. Penny Morgan (R)
Rep. Allen Rome (R)
Rep. Sandy Weiss (D)
Rep. Bill Wilson (D)

Members Excused: None.

Members Absent: None.

Staff Present: Bart Campbell, Legislative Branch
Alberta Strachan, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing & Date Posted: HB 76; HB 354; HB 184; HB 332
Executive Action: HB 319

VICE CHAIRMAN STEINBEISSER chaired this meeting.

HEARING ON HB 76**Sponsor:** REP. JOE MCKENNEY, HD 49, Great Falls**Opening Statement by Sponsor:**

REP. MCKENNEY read the title of the bill: An act to: 1) establish certified regional development corporations and treasure communities; 2) redirect the statutory appropriation to provide funding to certified regional development corporations; 3) establish the Economic Development Advisory Council; 4) provide for appointment and duties of Advisory Council; 5) abolishing the Micro Business Advisory Council.

{Tape: 1; Side: A; Approx. Time Counter: 1 - 80}

Proponents' Testimony:

Mark Simonich, Director, Department of Commerce, said they supported this bill. The fundamental goal of the program had been to use State funding to support and bolster local economic development efforts. Any incorporated community in the State can qualify to become a certified community. There are 200 communities in the State that could become certified. This bill laid out an incentive for communities to not cooperate with one another. For a local community to receive more money themselves, it has been in their own interest to create their own economic development group, get certified and get the money directly rather than participating in a larger organization with other communities. The goal with this bill as stated is to establish a network of regional economic development organizations in Montana, each with the capability to develop their economic development strategies.

{Tape: 1; Side: A; Approx. Time Counter: 81 - 178}

David Gibson, Governor's Office of Economic Opportunity, said the best example showing how this legislation would work in the State is the tourism model. They are not suggesting communities take the tourism model and force it on economic development. Organizations that have paid professional people who have combined groups together are much more effective than the individual part-time people working in isolation around the State.

{Tape: 1; Side: A; Approx. Time Counter: 178 - 262}

Web Brown, Montana Chamber of Commerce, said they support this bill. In 1987, residents in northwestern Montana formed the Sanders County Economic Development Corporation. The efforts to build an economy were far more effective by cooperating as a county rather than competing as communities. In Lewistown in

1991, efforts were started towards regionalization that has now resulted in the Snowy Mountain Development Corporation. Local communities, in some areas, still have their own programs and may apply for matching grants for local projects. Administrative costs are controlled and enhanced by this regionalization.

{Tape: 1; Side: A; Approx. Time Counter: 263 - 291}

Evan Barrett, Executive Director, Butte Local Development Corporation and Legislative Coordinator, Montana Economic Development Association, presented written testimony from Headwaters RD&D Area, Inc., Great Northern Development Corporation.

EXHIBIT (buh14a01)

EXHIBIT (buh14a02)

{Tape: 1; Side: A; Approx. Time Counter: 292 - 363}

Dick King, President, Missoula County Economic Development Corporation, provided written testimony.

EXHIBIT (buh14a03)

{Tape: 1; Side: A; Approx. Time Counter: 363 - 402}

REP. EILEEN CARNEY, HD 82, Libby, said she served on the Micro Business Advisory Council. This program contributes to the communities and works with people interested in small programs.

{Tape: 1; Side: A; Approx. Time Counter: 435 - 500}

Ross Johnson, Helena resident, said this bill referred to technical assistance programs. These programs provide technical assistance to people beginning new businesses.

{Tape: 1; Side: B; Approx. Time Counter: 1 - 19}

Carl Schweitzer, Kalispell Chamber of Commerce, said they concur with previous testimony.

{Tape: 1; Side: B; Approx. Time Counter: 20 - 24}

David Smith, President, Bozeman Chamber of Commerce, said he also concurs with previous testimony.

{Tape: 1; Side: B; Approx. Time Counter: 24 - 33}

Opponents' Testimony: None

Informational Testimony: None

Questions from Committee Members and Responses:

REP. ROME asked Mr. Barrett if Deer Lodge would be incorporated in the Butte district. **Mr. Barrett** indicated they were.

{Tape: 1; Side: B; Approx. Time Counter: 38 - 60}

REP. GALLIK asked Mr. Simonich about having legislators on the Micro Business Advisory Council and this was affirmed.

{Tape: 1; Side: B; Approx. Time Counter: 61 - 171}

REP. KEANE asked Mr. Simonich why the terms were reduced from four years to three years. **Mr. Simonich** said the terms were not an issue and they would agree to any arrangement on terms.

{Tape: 1; Side: B; Approx. Time Counter: 171 - 235}

REP. MENDENHALL asked Mr. Gibson if the administrative costs would be going to the State and this was affirmed.

{Tape: 1; Side: B; Approx. Time Counter: 235 - 380}

Closing by Sponsor:

The Sponsor closed.

{Tape: 1; Side: B; Approx. Time Counter: 372 - 380}

HEARING ON HB 354

Sponsor: **REP. BRAD NEWMAN, HD 38, Butte**

Opening Statement by Sponsor:

REP. NEWMAN read the title of the bill: An act creating and revising exemptions to the practice of barbering, cosmetology, and application of makeup and other services involving esthetics in cases of emergency and for certain visual arts productions.

{Tape: 1; Side: B; Approx. Time Counter: 400 - Tape:2; Side: A: Approx. Time counter 12}

Proponents' Testimony:

Jim Brown, Division Administrator, Business Standards Division, Department of Labor & Industry, said he was a proponent of this bill. Both the Department and Board of Cosmetology are in favor of the amendments.

{Tape: 2; Side: A; Approx. Time Counter: 13 - 24}

Stan Kaleczyc, Attorney at Law, Motion Picture Association of America, said they were the major production company in the U.S. There are times when production companies film in Montana. They use local services and local talent and that would include local cosmetologists. There are speciality services that are not generally available and for those special makeup instances,

artists do come on location. This bill will clarify the situation.

{Tape: 2; Side: A; Approx. Time Counter: 25 - 37}

Opponents' Testimony: None

Questions from Committee Members and Responses:

None

Closing by Sponsor:

The sponsor closed.

{Tape: 2; Side: A; Approx. Time Counter: 58 - 65}

HEARING ON HB 184

Sponsor: REP. BILL WILSON, HD 46, Great Falls

Opening Statement by Sponsor:

REP. WILSON read the title of the bill: An act regulating the use of credit histories or credit scores by insurers; providing definitions; providing the State Auditor with rule making authority to oversee the use of credit histories and credit scores; providing that the use of credit histories and credit scores applies to personal insurance; providing for notice to consumers with respect to the use of credit histories or credit scores; providing for corrections to erroneous credit histories or credit scores; requiring record keeping by insurers.

{Tape: 2; Side: A; Approx. Time Counter: 66 - 181}

Proponents' Testimony:

John Morrison, State Auditor, State Auditor's Office, said in his capacity, he serves as the insurance commissioner and they are charged with regulating the insurance industry pursuant to the terms of the Montana Insurance Code. He said he supported this legislation. He also supplied testimony from Kenneth D. Harvey; Robert E. Herbst; Kiki Leigh Rydell; Larry Carpenter; Eve Heim Hagen; State Auditor's Office.

EXHIBIT (buh14a04)

EXHIBIT (buh14a05)

EXHIBIT (buh14a06)

EXHIBIT (buh14a07)

EXHIBIT (buh14a08)

EXHIBIT (buh14a09)

{Tape: 2; Side: A; Approx. Time Counter: 188 - 454}

April Fife, Helena resident, said she had the same insurance company for seven years. After some time, her premium notice for insurance had gone up 40% from the previous year. There were no accidents, tickets or claims. Credit scoring and how it affects insurance rates is not understood by most drivers. **{Tape: 2; Side: A; Approx. Time Counter: 454 - 500}**

Jessica Wagner, Belgrade resident, said she felt no consideration was given for anything but their credit history. She supports this legislation.

{Tape: 2; Side: B; Approx. Time Counter: 1 - 41}

John Willoughby, insurance agent, said he felt credit scoring was the most unfair trade practice in the industry. Credit scoring affects the old and young and everyone in between. With 80% of the credit scores being inaccurate, Montana must do what is right for the citizens.

{Tape: 2; Side: B; Approx. Time Counter: 42 - 57}

Chad Adams, Attorney at Law, Helena resident, said he had recently moved from Texas to Montana. He said after telephoning several Helena agents, he decided to buy his insurance through State Farm Insurance. When they were sent the statement to pay for the insurance at the rates quoted by telephone, they were informed they would not be able to pay monthly and would not be able to pay the quoted rates. The agent questioned their credit rating. **Mr. Adams** then requested a credit report from the State Farm Insurance agent. Following, they received a letter stating a difference in the policy. The agent stated their credit was bad. The Montana rates were much higher than Texas, Utah and Arizona. The credit scoring policy should be stopped.

{Tape: 2; Side: B; Approx. Time Counter: 57 - 87}

Gene Fenderson, Montana Progressive Labor Caucus, said they stand in strong support of this bill. This bill is very badly needed in Montana. He said he had experienced some of the same problems as others who testified.

{Tape: 2; Side: B; Approx. Time Counter: 87 - 108}

Matthew Leo, Montana Public Interest Research Group, said they are in strong support of this bill.

{Tape: 2; Side: B; Approx. Time Counter: 108 - 117}

Roger McGlenn, Executive Director, Independent Insurance Agents Association of Montana, said agents are very concerned with the way credit history and credit scores have been generated and used by the insurance industry. They are often called upon to explain

and provide information and insight on how these credit scores are used and generated.

{Tape: 2; Side: B; Approx. Time Counter: 117 - 147}

Roger Halver, Montana Association of Realtors, said their members take two stands on this bill: 1) The use of credit history and credit scoring; 2) use of credit history and credit scoring underwriting criteria for writing homeowners policies.

{Tape: 2; Side: B; Approx. Time Counter: 147 - 186}

Opponents' Testimony:

John Metropoulos, National Association of Independent Insurers, said this was an important issue that if enacted should not go into effect until 2004.

{Tape: 2; Side: B; Approx. Time Counter: 186 - 360}

Larry Kibby, Vice President, Northwest Alliance of American Insurers, said credit scoring can be used as a fair variable in underwriting insurance. No company in his association has ever assumed they should use credit as the sole variable. They do believe this can be a predictive value and it has its place within the scope of things to consider.

{Tape: 2; Side: B; Approx. Time Counter: 360 - 500}

Jacqueline Lenmark, American Insurance Association, said to consider the law that is already in place. Montana already prohibits the denial of insurance for the refusal to renew cancellation based solely on credit history.

{Tape: 3; Side: A; Approx. Time Counter: 1 - 147}

Greg Van Horssen, State Farm Insurance, said insurance companies are in the business of predicting the future. The only way they can do that is to look back in time. Credit history and credit scoring are important tools for the insurance industry.

{Tape: 3; Side: A; Approx. Time Counter: 147 - 231}

Informational Testimony:

Bruce Brensdal, Administrator, Housing Division, Department of Commerce, and **Executive Director, Montana Board of Housing**, said he was available for questions.

{Tape: 4; Side: A; Approx. Time Counter: 231 - 250}

Questions from Committee Members and Responses:

REP. BOOKOUT-REINICKE asked Mr. Morrison if AARP used credit scoring. He said he did not know.

{Tape: 3; Side: A; Approx. Time Counter: 251 - 260}

REP. FRITZ asked Mr. Morrison how to predict risk from a credit rating when more than one company is involved. **Mr. Morrison** said they did not share those secrets.

{Tape: 3; Side: A; Approx. Time Counter: 260 - 332}

REP. WEISS asked Mr. Morrison if having a number of credit cards and their effect on a credit rating or scoring. **Mr. Morrison** indicated it would make it worse.

{Tape: 3; Side: A; Approx. Time Counter: 332 - 339}

REP. BERGREN asked Mr. Van Horssen if the credit scoring was taken out, would the use of past claims or past driving record suffice for a rating. **Mr. Van Horssen** said that it would.

{Tape: 3; Side: A; Approx. Time Counter: 332 - 338}

Closing by Sponsor:

The sponsor closed.

{Tape: 3; Side: A; Approx. Time Counter: 339 - 451}

HEARING ON HB 332

Sponsor: STEVE GALLUS, HD 35, Butte

Opening Statement by Sponsor:

REP. GALLUS said this bill was an act prohibiting an insurer writing automobile or homeowner's insurance from refusing to insure, refusing to continue to insure, varying rates, or limiting the scope or amount of coverage or benefits available to an individual based on any part on the insurer's knowledge of the individual's credit history.

{Tape: 3; Side: B; Approx. Time Counter: 114 - 201}

Proponents' Testimony:

Matthew Leo, Montana Public Interest Research Group, said credit scoring is an unfair business practice and needs to be rectified. The National Association of State Farm agents hereby resolve that they are opposed to any insurance company using credit scoring for the purpose of property and casualty underwriting. They

further support legislation to prohibit credit scoring for the purpose of property and casualty underwriting and rating. They believe this form of underwriting is profiling clients who otherwise would be eligible for property and casualty business.

{Tape: 3; Side: B; Approx. Time Counter: 201 - 240}

Opponents' Testimony:

John Metropoulos, National Institute of Underwriter Insurers, said credit scoring is a very good tool but clearly raises some concerns with people. That is unnecessary. If Farmers Insurance Group were unable to use credit scoring, 57% of the customers would pay higher premiums. Fifty-three percent of the homeowner insurance clients would pay higher premiums. To eliminate credit scoring would not necessarily help everyone. The larger segments of the population would not see a benefit.

{Tape: 3; Side: B; Approx. Time Counter: 240 - 269}

Larry Kibby, Alliance of American Insurers, said credit scoring is not all bad. There are very specific reasons why people in Montana are receiving credit benefits from the use of credit scoring. To completely deny the use of this important variable, is not the thing to do. The insurance industry and insurance companies take privacy extremely seriously. There are extreme privacy laws that are now on the books and stipulate what insurers can and cannot say to a number of people regarding information agents have about clients.

{Tape: 3; Side: B; Approx. Time Counter: 269 - 306}

Roger McGlenn, Executive Director, Independent Insurance Agents Association of Montana, said they objected to this bill because of affordability and availability. The independent agents of Montana are convinced that availability of the insurance product would severely suffer with an outright ban.

{Tape: 3; Side: B; Approx. Time Counter: 306 - 329}

Roger Halver, Montana Association of Realtors, said they opposed this bill because credit scoring is an important tool but not the only tool for underwriting homeowners policies. Members are having trouble finding insurance for those new homeowners, especially the low income new home owners. Credit history was one of the tools used to calculate insurance.

{Tape: 3; Side: B; Approx. Time Counter: 329 - 372}

Greg Van Horssen, State Farm Insurance, said this bill was a further limitation to the use of a tool, which is a valuable one.

He requested that his testimony on the previous bill be entered into the record.

{Tape: 3; Side: B; Approx. Time Counter: 372 - 384}

Jacqueline Lenmark, American Insurance Association, said her testimony also stands with the previous bill. Much of the concern is with the credit reporting process overall. It is not a fair use of that process to use it against one industry. The federal credit reporting act applies to many industries.

{Tape: 3; Side: B; Approx. Time Counter: 384 - 411}

Informational Testimony: None

Questions from Committee Members and Responses:

REP. GALLIK pointed out to Mr. Metropoulos that while his testimony indicated that credit scoring was not a highly predictive tool, the conclusion he stated in his testimony is questionable. **Mr. Metropoulos** said the Legislature only wants to hear about Montana. In the last session, information was given to the Commissioners Office. His company has worked in good faith and have made their decisions relying on sound studies. He said it was a fair statement to say that the way credit scoring works is a mystery to most insurers. **REP. GALLIK** then asked **Commissioner Morrison** if he could shed any light on the factoring of credit scoring. Commissioner Morrison said this bill was drafted similarly to the Washington bill with some differences.

{Tape: 3; Side: B; Approx. Time Counter: 411 - Tape: 4; Side: A; Approx. Time Counter: 102}

REP. MORGAN asked Mr. Kibby if he would object if Montana did pass the law which was exactly like the Washington bill. He said they did have some concerns and still do have concerns.

{Tape: 4; Side: A; Approx. Time Counter: 102 - 127}

REP. MENDENHALL asked Commissioner Morrison about the availability and cost of insurance and rise the in rates. The Commissioner said his opinion was that the state laws do not cause insurance companies to leave state markets. In some states, unlike Montana, insurance departments have the power to refuse to allow rates to be increased. There have been some cases where insurance departments have indicated that companies cannot raise their rates. Insurance departments have said they could not do that.

{Tape: 4; Side: A; Approx. Time Counter: 127 - 153}

Closing by Sponsor:

The sponsor closed.

{Tape: 4; Side: A; Approx. Time Counter: 153 - 204}

EXECUTIVE ACTION ON HB 319

Motion: REP. LAWSON moved HB 319 DO PASS.

Discussion:

Mr. Campbell spoke of REP. MORGAN'S concern regarding conflicts. The same section of law is being amended in different bills. Even though the same sections could be amended, they may be doing different things. When it comes time to codify, a composite section will be established. The change will be made to the part of the bill in question. If both bills were to pass, it would not be a problem because the amendments are identical.

Motion/Vote: REP. LAWSON moved HB 319 AMENDMENTS. Motion carried 18-0.

Motion/Vote: REP. LAWSON moved HB 319 DO PASS AS AMENDED. Motion carried 17-1 with REP. BOOKOUT-REINICKE voting no.

ADJOURNMENT

Adjournment: 12:00 A.M.

REP. JOE MCKENNEY, Chairman

ALBERTA STRACHAN, Secretary

JM/AS

EXHIBIT (buh14aad)